

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 171

BY BUSINESS COMMITTEE

AN ACT

RELATING TO OCCUPATIONAL THERAPY; AMENDING SECTION 54-3701, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-3702, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 54-3703, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-3704, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE A CORRECT CODE REFERENCE AND TO REVISE CERTAIN CERTIFICATION PROVISIONS; AMENDING SECTION 54-3705, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LIMITED PERMITS, TO PROVIDE A CORRECT CODE REFERENCE AND TO PROVIDE FOR TEMPORARY LICENSES; AMENDING SECTION 54-3706, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE AND PROVIDE REQUIREMENTS FOR LICENSURE; AMENDING CHAPTER 37, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3706, IDAHO CODE, TO PROVIDE FOR APPLICATIONS FOR LICENSURE; AMENDING SECTION 54-3707, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE EXAMINATION FOR LICENSURE PROVISIONS, TO PROVIDE THAT CERTAIN APPLICANTS THAT FAIL TO PASS THE EXAMINATION MUST SUBMIT A NEW APPLICATION AND TO LIMIT THE PERIOD OF TIME WHICH AN APPLICATION WILL BE HELD; AMENDING SECTION 54-3708, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE CORRECT TERMINOLOGY AND TO REVISE CERTIFYING ENTITY PROVISIONS; AMENDING SECTION 54-3709, IDAHO CODE, TO REDESIGNATE THE SECTION, TO DELETE REFERENCE TO RECOMMENDATION OF THE LICENSURE BOARD AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-3710, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE FOR THE TERM OF LICENSES AND TO PROVIDE FOR THE RENEWAL AND REINSTATEMENT OF LICENSES; AMENDING SECTION 54-3711, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR TEMPORARY FEES AND REINSTATEMENT FEES; AMENDING SECTION 54-3712, IDAHO CODE, TO REDESIGNATE THE SECTION, TO DELETE REFERENCE TO RECOMMENDATION OF THE LICENSURE BOARD, TO REFERENCE CERTAIN DISCIPLINARY ACTIONS, TO PROVIDE CODE REFERENCES, TO DELETE PROVISIONS RELATING TO UNPROFESSIONAL CONDUCT AND REFERENCE TO RULES, TO PROVIDE FOR RENEWAL OF SUSPENDED LICENSES, TO PROVIDE FOR CERTAIN REVOKED LICENSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3713, IDAHO CODE, TO REDESIGNATE THE SECTION, TO CLARIFY THE NAME OF THE BOARD, TO PROVIDE FOR APPOINTMENT AND REMOVAL OF BOARD MEMBERS BY THE GOVERNOR AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING CHAPTER 37, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3715, IDAHO CODE, TO PROVIDE FOR

SUPERVISION; AMENDING CHAPTER 37, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3716, IDAHO CODE, TO PROVIDE FOR COMPLAINTS; AMENDING SECTION 54-3714, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE AND PROVIDE FOR POWERS AND DUTIES OF THE BOARD; AMENDING CHAPTER 37, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3718, IDAHO CODE, TO PROVIDE GROUNDS FOR ACTION AGAINST A LICENSEE FOR UNPROFESSIONAL CONDUCT; AMENDING SECTION 54-3715, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR THE DISPOSITION OF RECEIPTS AND EXPENSES, TO DELETE REFERENCE TO THE DIRECTOR OF THE IDAHO STATE BOARD OF MEDICINE AND THE STATE BOARD OF MEDICINE ACCOUNT, TO PROVIDE CORRECT TERMINOLOGY AND TO SET FORTH PROVISIONS RELATING TO THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 54-3716, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR DISCIPLINARY ACTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 37, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3721, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL THERAPY LICENSURE FUND; AND AMENDING SECTION 54-3717, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT TERMINOLOGY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-3701, Idaho Code, be, and the same is hereby amended to read as follows:

54-3701. LEGISLATIVE INTENT. In order to promote the public health, safety, and welfare; to promote the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants; and to assure the availability of occupational therapy services of high quality to persons in need of such services, it is the purpose of this ~~act chapter~~ to provide for the regulation of persons offering occupational therapy services to the public.

SECTION 2. That Section 54-3702, Idaho Code, be, and the same is hereby amended to read as follows:

54-3702. DEFINITIONS. As used in this chapter:

(1) "Association" means the Idaho occupational therapy association.

(2) "Board" means the ~~Idaho state board of medicine~~ occupational therapy licensure board of Idaho as set out in section 54-3717, Idaho Code.

(3) ~~"Licensure board" means the board established to conduct examinations under this chapter, to make recommendations and consult with the board and to perform such other duties as may be required or authorized by this chapter.~~ "Bureau" means the bureau of occupational licenses.

(4) "Department" means the department of self-governing agencies.

(5) "Good standing" means the individual's license, certification, or registration is not currently suspended or revoked by any state regulatory entity.

(6) "Graduate occupational therapist" means a person who holds a certificate of graduation from an approved occupational therapy curriculum, who has submitted a completed application for certification by examination, and who may practice occupational therapy in association with and under the supervision of an occupational therapist and under authority of a limited permit.

(7) "Graduate occupational therapy assistant" means a person who holds a certificate of graduation from an approved occupational therapy assistant curriculum, who has submitted a completed application for licensure by examination and is performing the duties of occupational therapy assistant in association with and under the supervision of an occupational therapist and under the authority of a limited permit.

(8) "License" means a document issued by the board to a person under this chapter authorizing the person to practice as an occupational therapist or occupational therapy assistant.

(49) "Occupational therapist" means a person licensed to practice occupational therapy.

~~(510) "Occupational therapy" is the use of purposeful, goal oriented activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities/deficits, poverty or cultural difficulties or the aging process in order to achieve optimum functional performance, independence, prevent further disability and maintain health. The practice of occupational therapy encompasses the evaluation, consultation and treatment of individuals whose abilities to cope with the tasks of daily living are threatened or impaired by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities/deficits, poverty or cultural difficulties or the aging process and includes a treatment program through the use of specific techniques which enhance functional performance and includes the evaluation/assessment of the patient/clients self care, work and leisure skills, cognition, perception; sensory and motor performance; play skills; vocational and prevocational capacities; need for adaptive equipment; application of selected prosthetic or orthotic devices; and the administration of standardized and nonstandardized assessments~~ means the care and services provided by or under the direction and supervision of an occupational therapist.

~~(611) "Occupational therapy aide~~ "Aide in the delivery of occupational therapy services" means an unlicensed person who aids a licensed occupational therapist or occupational therapy assistant in the practice of occupational therapy, whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy a person who is not licensed by the board and who provides supportive services to occupational therapists and occupational therapy assistants. An aide shall function only under the guidance, responsibility and line of sight supervision of the licensed occupational therapist or an occupational therapy assistant who is appropriately supervised by an occupational therapist. The aide provides only specifically selected client related or nonclient related tasks for which the aide has been trained and has demonstrated competence.

~~(712) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy, and who works under the supervision of an occupational therapist.~~

~~(8) "Person" means any individual, partnership, unincorporated organization, or corporation.~~

(13) "Practice of occupational therapy" means the therapeutic use of everyday life activities (occupations) with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings. Occupational therapy

services are provided for the purpose of promoting health and wellness and to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being and quality of life.

(a) Methods or strategies selected to direct the process of interventions such as:

(i) Establishment, remediation, or restoration of a skill or ability that has not yet developed or is impaired.

(ii) Compensation, modification, or adaptation of activity or environment to enhance performance.

(iii) Maintenance and enhancement of capabilities without which performance in everyday life activities would decline.

(iv) Health promotion and wellness to enable or enhance performance in everyday life activities.

(v) Prevention of barriers to performance, including disability prevention.

(b) Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), rest and sleep, education, work, play, leisure, and social participation, including:

(i) Client factors, including body functions (such as neuromuscular, sensory, visual, perceptual, cognitive), values, beliefs, and spirituality, and body structures (such as cardiovascular, digestive, integumentary, genitourinary systems).

(ii) Performance patterns, including habits, routines, roles, and behavior patterns.

(iii) Contexts and activity demands that affect performance, including cultural, physical, environmental, social, virtual and temporal.

(iv) Performance skills, including sensory perceptual skills, motor and praxis skills, emotional regulation skills, cognitive skills, communication and social skills.

(c) Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, rest and sleep, including:

(i) Therapeutic use of occupations, exercises, and activities.

(ii) Training in self-care, self-management, home management, and community/work reintegration.

(iii) Development, remediation, or compensation of physical, cognitive, neuromuscular, sensory functions and behavioral skills.

(iv) Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process.

(v) Education and training of individuals, including family members, caregivers, and others.

(vi) Care coordination, case management, and transition services.

(vii) Consultative services to groups, programs, organizations, or communities.

(viii) Modification of environments (home, work, school, or community) and adaptation of processes, including the application of ergonomic principles.

(ix) Assessment, design, fabrication, application, fitting, and training in assistive technology, adaptive devices, orthotic devices, and prosthetic devices.

(x) Assessment, recommendation, and training in techniques to enhance functional mobility, including wheelchair management.

(xi) Driver rehabilitation and community mobility.

(xii) Management of feeding, eating, and swallowing to enable eating and feeding performance.

(xiii) Application of physical agent modalities, and use of a range of specific therapeutic procedures (such as wound care management; techniques to enhance sensory, perceptual, and cognitive processing; manual therapy techniques) to enhance performance skills.

(d) Engaging in administration, consultation, testing, education and research as related to paragraphs (a), (b) and (c) of this subsection and further established in rule.

SECTION 3. That Section 54-3703, Idaho Code, be, and the same is hereby amended to read as follows:

54-3703. LICENSE REQUIRED. It shall be unlawful for any person to practice or to offer to practice occupational therapy, or to represent such person to be an occupational therapist or occupational therapy assistant unless such person is licensed under the provisions of this ~~act~~ chapter. Only an individual may be licensed under this ~~act~~ chapter.

SECTION 4. That Section 54-3704, Idaho Code, be, and the same is hereby amended to read as follows:

54-3704. EXEMPTIONS. Nothing in this ~~act~~ chapter shall be construed as preventing or restricting the practice, services or activities or requiring licensure pursuant to this ~~act~~ chapter of:

(1) Any person licensed in this state by any other law from engaging in the profession or occupation for which such person is licensed; or

(2) Any person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency thereof, if such person provides occupational therapy solely under the direction or control of the organization by which such person is employed; or

(3) Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy in an accredited or approved educational program, if the person is designated by a title which clearly indicates a student or trainee status; or

(4) Any person fulfilling the supervised fieldwork experience requirements of section 54-3706~~7~~, Idaho Code, if the experience constitutes a part of the experience necessary to meet the requirement of that section; or

(5) For purposes of continuing education, consulting, and/or training, any person performing occupational therapy services in the state, if these services are performed for no more than sixty (60) days in a calendar year in association with an occupational therapist licensed under this ~~act~~ chapter, if:

(a) The person is licensed as an occupational therapist or occupational therapy assistant in good standing in another state; or

(b) The person is certified as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA) by the ~~American~~ national board for certification of occupational therapy association or its successor organization.

SECTION 5. That Section 54-3705, Idaho Code, be, and the same is hereby amended to read as follows:

54-3705. LIMITED PERMIT – AND TEMPORARY LICENSE. (1) A limited permit may be granted to a ~~person~~ graduate occupational therapist or a graduate occupational therapy assistant who has completed the education and experience requirements of this ~~act~~ chapter for an occupational therapist or an occupational therapy assistant. The permit shall allow a person to practice occupational therapy ~~in association with a licensed occupational therapist as established by board rule~~ under supervision as defined in section 54-3715, Idaho Code. This permit shall be valid until the person is issued a license under section 54-3709~~10~~, Idaho Code, or until the results of the examination taken are available to the board. The board may renew a limited permit once.

(2) A temporary license may be issued by the board to an applicant who is currently licensed and in good standing to practice in another jurisdiction and meets the requirements for licensure by endorsement of the other jurisdiction while the application is being processed by the board.

SECTION 6. That Section 54-3706, Idaho Code, be, and the same is hereby amended to read as follows:

54-3706~~7~~. REQUIREMENTS FOR LICENSURE. A person applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application provided by the board showing to the satisfaction of the board that such person meets the following requirements:

(1) Education: Applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements of an educational program in occupational therapy that is accredited by the American occupational therapy association's accreditation council for occupational therapy education (ACOTE) or predecessor or successor organizations and approved by the licensure board.

(2) Experience: Applicant shall submit to the licensure board evidence of having successfully completed a period of supervised fieldwork experience acceptable to the board, which period of fieldwork experience shall be:

(a) For an occupational therapist, a minimum of six (6) months of supervised fieldwork experience; or

(b) For an occupational therapy assistant, a minimum of ~~two~~ four (24) months of supervised fieldwork experience.

(3) Examination: An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall pass an examination as provided for in section 54-3707~~8~~, Idaho Code.

(4) Is in good standing.

SECTION 7. That Chapter 37, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3706, Idaho Code, and to read as follows:

54-3706. APPLICATION FOR LICENSURE. Each applicant for licensure shall submit a completed written application to the board, on forms prescribed by the board, together with

the application fee. The application shall be verified under oath and shall require the following information:

(1) A certificate of graduation from an approved occupational therapy curriculum, or an approved occupational therapy assistants curriculum accredited by the American occupational therapy association's accreditation council for occupational therapy education, or an accrediting agency recognized by the United States secretary of education, the council for higher education accreditation, or both;

(2) The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses;

(3) The disclosure of any disciplinary action against the applicant by any state professional regulatory agency or professional organization;

(4) A person trained as an occupational therapist outside of the United States and its territories shall satisfy the examination requirements as provided in section 54-3708, Idaho Code. The board shall require such applicants to meet examination eligibility requirements as established by the credentialing body recognized by the board and which are substantially equal to those found in section 54-3708, Idaho Code.

SECTION 8. That Section 54-3707, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-37078. EXAMINATION FOR LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS. (1) Each applicant for licensure shall be examined by written examination to test the person's knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and such other subjects as the licensure board may require to determine the applicant's fitness to practice. The licensure board shall approve an examination for occupational therapists and an examination for occupational therapy assistants and establish standards for acceptable performance.~~

~~(2) Applicants for licensure shall be examined at a time and place and under such supervision as the board may require. Examinations shall be given at least twice each year at such places as the board may determine. The board shall give reasonable public notice of these examinations in accordance with its rules.~~

~~(3) Applicants may obtain their examination scores and may review their papers in accordance with such rules as the licensure board may establish. The written examination shall be the examination conducted by the national board for certification in occupational therapy and the passing score shall be the passing score established by the national board for certification in occupational therapy or its successor organization.~~

(2) An applicant for licensure by examination who fails to pass the examination after two (2) attempts must submit a new application as set out in this chapter.

(3) An application upon which the applicant takes no further action will be held for no longer than one (1) year.

SECTION 9. That Section 54-3708, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-37089. WAIVER OF REQUIREMENTS – LICENSE ENDORSEMENT. (1) The~~ licensure board shall grant a license to any person certified prior to the effective date of this

~~act~~ chapter and practicing in Idaho as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA) by the ~~American~~ national board for certification in occupational therapy association (AOTA) or its successor organization. The licensure board may waive the examination, education, or experience requirements and grant a license to any person certified by the ~~AOTA~~ national board for certification after the effective date of this ~~act~~ chapter if the board determines the requirements for such certification are equivalent to the requirements for licensure in this ~~act~~ chapter.

(2) The licensure board may waive the examination, education, or experience requirements and grant a license to any applicant who shall present proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure pursuant to this ~~act~~ chapter.

SECTION 10. That Section 54-3709, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-3709~~10. ISSUANCE OF LICENSE. The board ~~based upon recommendation of the licensure board~~ shall issue a license to any person who meets the requirements of this ~~act~~ chapter upon payment of the prescribed license fees.

SECTION 11. That Section 54-3710, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-3710~~11. RENEWAL AND REINSTATEMENT OF LICENSE. (1) Any license issued under this ~~act~~ chapter shall be subject to annual renewal and shall expire on the applicant's birthdate unless renewed before the applicant's birthdate in the manner prescribed by the rules of the board. ~~The board may reinstate a license cancelled for failure to renew upon compliance with requirements of the board for renewal of licenses.~~ The board shall require biennial proof of completing at least two (2) continuing education units recommended by the association and approved by the board. In addition, the board shall require ten (10) hours of professional development units as established in rule.

(2) The board may reinstate a license canceled for failure to renew upon compliance with requirements of the board for renewal of licenses.

(23) Upon application, the board shall grant inactive status to a licensee who (a) does not practice as an occupational therapist or an occupational therapy assistant, or (b) maintains any continuing competency requirements established by the board.

(4) An individual desiring reinstatement to full active licensure to practice as an occupational therapist or occupational therapy assistant shall submit a completed written application to the board according to procedures and requirements as promulgated by rule.

SECTION 12. That Section 54-3711, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-3711~~2. FEES. The licensure board shall adopt rules establishing fees for the following:

- (a) Initial license fee;
- (b) Renewal of license fee;

- 1 (c) Inactive license fee; ~~and~~
 2 (d) Limited permit and temporary license fee; and
 3 (e) Reinstatement fee.

4 SECTION 13. That Section 54-3712, Idaho Code, be, and the same is hereby amended to
 5 read as follows:

6 54-3712~~3~~. SUSPENSION AND REVOCATION OF LICENSE – REFUSAL TO
 7 RENEW. (1) Subject to the provisions of chapter 52, title 67, Idaho Code, the board, ~~upon~~
 8 ~~recommendation of the licensure board,~~ may deny a license or refuse to renew a license, or
 9 may suspend or revoke a license or may impose probationary conditions or disciplinary actions
 10 set out in section 54-3720, Idaho Code, if the ~~license~~ licensee or applicant for license has been
 11 found guilty of unprofessional conduct as set forth in section 54-3718, Idaho Code, which
 12 has endangered or is likely to endanger the health, welfare, or safety of the public. ~~Such~~
 13 ~~unprofessional conduct includes, but is not limited to:~~

- 14 (a) ~~Obtaining a license by means of fraud, misrepresentation, or concealment of material~~
 15 ~~facts;~~
 16 (b) ~~Being guilty of unprofessional conduct as defined by the rules established by the~~
 17 ~~board, or violating the code of ethics adopted and published by the board;~~
 18 (c) ~~Being convicted of a felony by a court of competent jurisdiction;~~
 19 (d) ~~The unauthorized practice of medicine;~~
 20 (e) ~~Violating any provisions of this act or any of the rules promulgated by the board~~
 21 ~~under the authority of this act.~~

22 (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary
 23 conditions upon a license may be ordered by the board after a hearing in the manner provided
 24 by ~~the rules adopted by the board~~ chapter 52, title 67, Idaho Code. An application for
 25 reinstatement may be made to the board one (1) year from the date of the revocation of a
 26 license. The board shall (a) accept or reject an application for reinstatement; and (b) hold a
 27 hearing to consider such reinstatement.

28 (3) A suspended license is subject to expiration and may be renewed as provided in this
 29 chapter, but such renewal shall not entitle the licensee, while the license remains suspended and
 30 until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in
 31 violation of the order of judgment by which the license was suspended.

32 (4) A license revoked on disciplinary grounds is subject to expiration as provided in this
 33 chapter, but it may not be renewed. The licensee, as a condition of reinstatement, shall meet
 34 license requirements for new licensees and shall pay a reinstatement fee set by the board.

35 SECTION 14. That Section 54-3713, Idaho Code, be, and the same is hereby amended to
 36 read as follows:

37 54-3713~~4~~. LICENSURE BOARD. (1) The occupational therapy licensure board of
 38 Idaho shall consist of five (5) members appointed by the ~~board~~ governor, three (3) of whom
 39 shall be appointed from recommendations of licensees submitted by the association, except the
 40 first licensure board appointments whose members shall be registered occupational therapists
 41 (OTR's) or certified occupational therapy assistants (COTA's) eligible to become licensed under
 42 this ~~act~~ chapter, all of whom shall be residents of Idaho at the time of their appointment. If
 43 recommendations are not made within sixty (60) days of notification and request, the ~~board~~

governor may make appointments of any qualified individual. The persons appointed to the licensure board who are required to be licensed under this ~~act~~ chapter shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five (5) years immediately preceding their appointments. At least three (3) licensure board members shall be occupational therapists and one (1) of those members may be an occupational therapy assistant. These members shall at all times be holders of valid licenses for the practice of occupational therapy in Idaho, except for the members of the first board, all of whom shall fulfill the requirements for licensure of this ~~act~~ chapter. The remaining members shall be members of health professions or members of the public with an interest in the rights of the consumers of health services.

(2) The ~~board~~ governor, within sixty (60) days following the effective date of this ~~act~~ chapter, shall appoint two (2) licensure board members for a term of one (1) year; two (2) for a term of two (2) years; and one (1) for a term of three (3) years. Appointments made thereafter shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed in this section.

(3) Within thirty (30) days after the effective date of this ~~act~~ chapter, and annually thereafter, the association may submit at least three (3) and not more than five (5) names for each of the five (5) board positions. In the event of a vacancy in one (1) of the positions the association may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. The ~~board~~ governor shall appoint, as soon as practical, one (1) person, who shall fill the unexpired term. If the association does not provide a recommendation, the ~~board~~ governor shall appoint a person to the unexpired term. The ~~board~~ governor may remove any licensure board member for misconduct, incompetency, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon.

(4) The licensure board shall within sixty (60) days after the effective date of this ~~act~~ chapter, and annually thereafter, hold a meeting and elect a chairman who shall preside at meetings of the licensure board. In the event the chairman is not present at any licensure board meeting, the licensure board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the licensure board shall constitute a quorum. Other meetings may be convened at the call of the chairman or the written request of any two (2) licensure board members.

(5) Each member of the licensure board shall be compensated as provided in section 59-509(h), Idaho Code.

SECTION 15. That Chapter 37, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3715, Idaho Code, and to read as follows:

54-3715. SUPERVISION. Within the scope of occupational therapy practice, supervision is aimed at ensuring the safe and effective delivery of occupational therapy services and fostering professional competence and development. Practices and procedures governing the supervision of occupational therapy assistants, a limited permit holder and an aide in the delivery of occupational therapy services shall be established in rule and be adopted by the

board. Practices and procedures shall include, but not be limited to, delivery of occupational therapy services, facilitation of growth and competence, frequency, methods and content of supervision, a plan of supervision and required documentation of compliance with the plan.

SECTION 16. That Chapter 37, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3716, Idaho Code, and to read as follows:

54-3716. COMPLAINTS. (1) Any person may file a complaint with the board against any licensed occupational therapist or licensed occupational therapy assistant in the state charging that person with having violated the provisions of this chapter.

(2) The complaint shall specify charges in sufficient detail so as to disclose to the accused fully and completely the alleged acts of misconduct for which he or she is charged.

(3) Upon receiving a complaint, the board shall notify the licensee of the complaint and request a written response from the licensee.

(4) The board shall keep an information file about each complaint filed with the board. The information in each complaint file shall contain complete, current and accurate information including, but not limited to:

- (a) All persons contacted in relation to the complaint;
- (b) A summary of findings made at each step of the complaint process;
- (c) An explanation of the legal basis and reason for a complaint that is dismissed; and
- (d) Other relevant information.

SECTION 17. That Section 54-3714, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-3714.7. BOARD OF MEDICINE AND OCCUPATIONAL THERAPY LICENSURE~~
BOARD OF IDAHO – POWERS AND DUTIES. (1) The licensure board shall administer, coordinate, and enforce the provisions of this ~~act chapter~~, evaluate the qualifications, and approve the examinations for licensure under this ~~act chapter~~, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this ~~act chapter~~. ~~The licensure board shall conduct examinations of all applicants for licensure and make recommendations to and consult with the board concerning issuance of licenses, revocation of licenses and rules and regulations to be promulgated under this act.~~

(2) The licensure board shall, ~~upon recommendation of the licensure board~~, adopt rules and regulations, pursuant to chapter 52, title 67, Idaho Code, relating to professional conduct to carry out the policy of this ~~act chapter~~ including, but not limited to, regulations relating to professional licensure and to the establishment of ethical standards of practice, disciplinary proceedings, license suspension proceedings, or license revocation proceedings for persons holding a license to practice occupational therapy in this state.

(3) The licensure board shall hold meetings, conduct hearings and keep records and minutes as are necessary to carry out its functions.

(4) Authorize, by written agreement, the bureau of occupational licenses to act as its agents in its interests as set out in the written agreement.

1 (5) Communicate disciplinary actions to relevant state and federal authorities, the
 2 national board for certification in occupational therapy (NBCOT), the American occupational
 3 therapy association (AOTA) and to other state occupational licensing authorities.

4 SECTION 18. That Chapter 37, Title 54, Idaho Code, be, and the same is hereby
 5 amended by the addition thereto of a NEW SECTION, to be known and designated as Section
 6 54-3718, Idaho Code, and to read as follows:

7 54-3718. GROUNDS FOR UNPROFESSIONAL CONDUCT. The board may take
 8 disciplinary action against a licensee for unprofessional conduct including:

9 (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material
 10 facts;

11 (2) Being guilty of unprofessional conduct as defined by the rules established by the
 12 board, or violating the code of ethics adopted and published by the board;

13 (3) Being convicted of a crime in any court except for minor offenses;

14 (4) Violating any lawful order, rule or regulation rendered or adopted by the board;

15 (5) Violating any provision of this chapter or rules promulgated pursuant to this chapter;

16 (6) Practicing beyond the scope of the practice of occupational therapy;

17 (7) Providing substandard care as an occupational therapist due to a deliberate or
 18 negligent act or failure to act regardless of whether actual injury to the client is established;

19 (8) Providing substandard care as an occupational therapy assistant, including exceeding
 20 the authority to perform components of intervention selected and delegated by the supervising
 21 occupational therapist regardless of whether actual injury to the client is established;

22 (9) Failing to provide appropriate supervision to an occupational therapy assistant or aide
 23 in accordance with this chapter and board rules;

24 (10) Practicing as an occupational therapist or occupational therapy assistant when
 25 competent services to recipients may not be provided due to the therapist's own physical or
 26 mental impairment;

27 (11) Having an occupational therapist or occupational therapy assistant license revoked
 28 or suspended, other disciplinary action taken, or an application for licensure refused, revoked
 29 or suspended by the proper authorities of another state, territory or country, irrespective of
 30 intervening appeals and stays;

31 (12) Engaging in sexual misconduct. For the purposes of this subsection, sexual
 32 misconduct includes:

33 (a) Engaging in or soliciting sexual relationships, whether consensual or non-consensual,
 34 while an occupational therapist or occupational therapy assistant/client relationship exists
 35 with that person;

36 (b) Making sexual advances, requesting sexual favors or engaging in physical contact of
 37 a sexual nature with a client or clients;

38 (13) Aiding or abetting a person who is not licensed as an occupational therapist or
 39 occupational therapy assistant in this state and who directly or indirectly performs activities
 40 requiring a license;

41 (14) Abandoning or neglecting a client or clients under and in need of immediate
 42 professional care, without making reasonable arrangements for the continuation of such care.

43 SECTION 19. That Section 54-3715, Idaho Code, be, and the same is hereby amended to
 44 read as follows:

1 ~~54-37159. BOARD OF MEDICINE – ADMINISTRATIVE PROVISIONS~~
 2 ~~DISPOSITION OF RECEIPTS – EXPENSES. (1) The executive director of the Idaho~~
 3 ~~state board of medicine shall serve as executive director to the licensure board.~~

4 ~~(2) All fees received under the provisions of this act chapter shall be deposited in the~~
 5 ~~state treasury to the credit of the state board of medicine account created by section 54-1809,~~
 6 ~~Idaho Code, occupational therapy licensure fund and all costs and expenses incurred by the~~
 7 ~~board and licensure board under the provisions of this act chapter shall be a charge against and~~
 8 ~~paid from said fund for such purposes, and the funds collected hereunder shall be immediately~~
 9 ~~available for the administration of this act chapter. In no instance shall the state board of~~
 10 ~~medicine account occupational therapy licensure fund be obligated to pay any claims which~~
 11 ~~in aggregate with claims already allowed exceed the income to the state board of medicine~~
 12 ~~account occupational therapy licensure fund which has been derived from the application of this~~
 13 ~~act chapter.~~

14 ~~(2) Money paid into the state board of medicine account occupational therapy licensure~~
 15 ~~fund pursuant to this act chapter is hereby continuously appropriated to the licensure board for~~
 16 ~~expenditure in the manner prescribed herein to defray the expenses of the board and licensure~~
 17 ~~board in carrying out and enforcing the provisions of this act chapter.~~

18 SECTION 20. That Section 54-3716, Idaho Code, be, and the same is hereby amended to
 19 read as follows:

20 ~~54-371620. PENALTIES AND DISCIPLINARY ACTIONS.~~ Any person who violates
 21 any provision of this ~~act chapter~~ shall, upon conviction, be guilty of a misdemeanor.

22 ~~(1) The board may impose separately, or in combination, any of the following~~
 23 ~~disciplinary actions on a licensee as provided in this chapter:~~

- 24 ~~(a) Refuse to issue or renew a license;~~
- 25 ~~(b) Suspend or revoke a license;~~
- 26 ~~(c) Impose probationary conditions;~~
- 27 ~~(d) Issue a letter of reprimand or concern;~~
- 28 ~~(e) Require restitution of fees;~~
- 29 ~~(f) Impose a fine as provided for by rule which deprives the licensee of any economic~~
 30 ~~advantage gained by the violation and which reimburses the board for costs of the~~
 31 ~~investigation and proceeding;~~
- 32 ~~(g) Impose practice and/or supervision requirements;~~
- 33 ~~(h) Require licensees to participate in continuing competence activities specified by the~~
 34 ~~board;~~
- 35 ~~(i) Accept a voluntary surrendering of license; or~~
- 36 ~~(j) Take other appropriate corrective actions, including advising other parties, as needed,~~
 37 ~~to protect their legitimate interests and to protect the public.~~

38 ~~(2) If the board imposes suspension or revocation of license, application may be made~~
 39 ~~to the board for reinstatement, subject to the limits of this chapter. The board shall have~~
 40 ~~discretion to accept or reject an application for reinstatement and may require an examination~~
 41 ~~or other satisfactory proof of eligibility for reinstatement.~~

42 ~~(3) If a licensee is placed on probation, the board may require the license holder to:~~

- 43 ~~(a) Report regularly to the board on matters that are the basis of probation;~~
- 44 ~~(b) Limit practice to the areas prescribed by the board;~~

1 (c) Continue to review continuing competence activities until the license holder attains a
 2 degree of skill satisfactory to the board in those areas that are the basis of the probation;
 3 or

4 (d) Provide other relevant information to the board.

5 (4) (a) The board is empowered to apply for relief by injunction, without bond, to
 6 restrain any person, partnership, or corporation from any threatened or actual act or
 7 practice, which constitutes an offense under the provisions of this chapter. It shall not be
 8 necessary for the board to allege and prove that there is no adequate remedy at law in
 9 order to obtain the relief requested. The members of the board shall not be individually
 10 liable for applying for such relief.

11 (b) If a person other than a licensed occupational therapist or occupational therapy
 12 assistant threatens to engage in or has engaged in any act or practice which constitutes an
 13 offense under the provisions of this chapter, a district court of any county on application
 14 of the board may issue an injunction or other appropriate order restraining such conduct.

15 SECTION 21. That Chapter 37, Title 54, Idaho Code, be, and the same is hereby
 16 amended by the addition thereto of a NEW SECTION, to be known and designated as Section
 17 54-3721, Idaho Code, and to read as follows:

18 54-3721. OCCUPATIONAL THERAPY LICENSURE FUND. All fees collected under
 19 the provisions of this chapter shall be deposited in the state treasury to the credit of a separate
 20 fund to be known as the state occupational therapy licensure fund. All moneys received by
 21 said fund are hereby appropriated to the occupational therapy licensure board of Idaho for
 22 carrying out the purposes and objectives of this chapter, and to pay all costs and expenses
 23 incurred in connection therewith. Moneys shall be paid from the fund upon warrants drawn by
 24 the state controller upon presentation of proper vouchers approved by the board.

25 SECTION 22. That Section 54-3717, Idaho Code, be, and the same is hereby amended to
 26 read as follows:

27 54-3717. SEVERABILITY. The provisions of this ~~act~~ chapter are hereby declared to
 28 be severable and if any provision of this ~~act~~ chapter or the application of such provision to any
 29 person or circumstance is declared invalid for any reason, such declaration shall not affect the
 30 validity of remaining portions of this ~~act~~ chapter.